

**LEGISLATIVE SERVICES AGENCY**  
**OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6836**

**BILL NUMBER: SB 314**

**NOTE PREPARED: Mar 17, 2008**

**BILL AMENDED: Mar 14, 2008**

**SUBJECT:** Agriculture Matters.

**FIRST AUTHOR:** Sen. Ford

**FIRST SPONSOR:** Rep. Pflum

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Name Change.* The bill changes the name of the Department of Agriculture to the Indiana State Department of Agriculture (ISDA).

*Duties of the ISDA.* The bill adds specific economic development efforts to be administered by the ISDA. It requires the ISDA to assist agricultural businesses in obtaining and preparing permits and serving as a liaison between the business and state and local government. It provides for the confidentiality of financial and application information obtained by the ISDA that relates to economic development or promotion of agriculture and certain voluntary certification programs. It establishes duties for the director of the ISDA concerning agricultural promotion, research, and international agricultural trade. It establishes duties for the director of the ISDA concerning diversified farming.

*Repealed Provisions.* The bill repeals provisions concerning (1) operation of livestock export inspection facilities; (2) livestock inspection fees; (3) livestock export facilities; (4) the livestock export facility administration fund; (5) the center for value added research; and (6) adoption of federal fruit grades, domestic grading of certain fruits, inspections, and penalties. The bill also makes conforming changes.

*Fertilizer Law.* The bill makes changes to the commercial fertilizer law, including changing the definition of "blending" for fertilizers and adding a definition of "ammonium nitrate". It makes it a Class A misdemeanor to knowingly or intentionally violate the commercial fertilizer law. It changes the membership of the Fertilizer Advisory Board. It amends certain definitions concerning pesticide laws. It removes the specific volume requirement for exempted bulk pesticide containers. The bill removes certain pesticides from the list of restricted pesticides. It requires pesticide product applicants to comply with the pesticide product laws. The bill allows the State Chemist to deny a pesticide product registration. It amends a pesticide product

applicant's and registrant's right to a review of a State Chemist's action.

The bill changes the membership of the Pesticide Review Board. The bill allows the members to continue to serve until a successor is appointed and qualified. It provides that the board's travel reimbursement must meet Purdue University's travel policies. It allows the State Chemist to have access to production records of pesticide products. The bill provides that the State Chemist may refer violations to the prosecuting attorney. (Current law requires referral.)

The bill amends the definition of "property" under pesticide use and application laws to include vehicles. It includes diagnostic inspections and determining infestations of wood destroying pests as qualifications to obtain a pesticide business license. The bill adds technician registrations to the licenses that are invalid if the business does not maintain financial responsibility. It prohibits (1) verbal misrepresentations concerning the effect of pesticides; (2) using known ineffective amounts of pesticides; (3) refusing to supply the State Chemist information during an investigation or inspection; (4) intentionally altering a license; (5) failing to provide proof of financial responsibility; and (6) impeding duties of the State Chemist.

The bill increases the battery penalty to a Class A misdemeanor if committed against the State Chemist or the State Chemist's agent while performing their duties. It allows the State Chemist to specify the time period certain pesticide records must be kept. It removes the 60-day time limit to file a claim from a pesticide accident and 7-day notification of licensee's after an accident claim is filed.

*State Board of Animal Health (SBAH).* The bill authorizes the SBAH to provide voluntary grading and certification relating to meat and meat products. It provides that a person who knowingly or intentionally forges a grade or certification commits a Class D felony.

**Effective Date:** July 1, 2008.

**Explanation of State Expenditures:** *Duties of the ISDA.* The proposal will have no fiscal impact because the changes conform to current practices.

*Fertilizer Law.* The bill updates the Fertilizer Law so that it conforms with current practice. The bill changes the membership of the Fertilizer Advisory Board. The bill amends a pesticide product applicant's and registrant's right to a review of a State Chemist's action. It changes the membership of the Pesticide Review Board. The bill allows the State Chemist to have access to production records of pesticide products. It provides that the State Chemist may refer violations to the prosecuting attorney. (Current law requires referral.) The bill removes the 60-day time limit to file a claim from a pesticide accident and 7-day notification of licensee's after an accident claim is filed. These provisions will have no significant fiscal impact.

*State Board of Animal Health.* The SBAH may incur additional administrative expenses associated with grading and certifying meat. However, the program is voluntary both for meat producers and for the SBAH, and the SBAH is authorized to charge a fee to cover costs.

SBAH-- Training of Inspectors. The U.S. Department of Agriculture (USDA) provides a 6-week training course on grading and certification. The course is free of charge to states. The only cost that would be incurred by the state would be the costs associated with travel to the training site, lodging, and per diem. Training locations vary. Specific costs will depend on the training site as well as how many inspectors are trained.

SBAH–Fees and Liability. The board must adopt rules to set the fees. The SBAH will be able to provide administrative assistance in the adoption of fees given its existing budget. Neither the board nor the state may incur any liability for lawful actions taken under these provisions.

SBAH-- Penalty Provision. A person who knowingly or intentionally forges a grade or certification commits a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Background Information on SBAH. Currently, the SBAH’s meat inspection program targets sanitation. The SBAH maintained a staff of 53 meat and poultry inspectors as of June 2007. If trained, inspectors would grade the meat in the plant at the time of slaughter or after slaughter. The amount of time that the SBAH inspectors would spend on grading and certification would depend on demand. The SBAH has the option not to conduct the inspections if they prove too time consuming.

Some local restaurants may not use locally produced meat if the meat is not graded or certified. Currently, producers must pay a federal inspector from Chicago to grade or certify meat.

**Explanation of State Revenues:** *SBAH–Fees.* The board must charge a fee to cover the cost of grading and certification. Meat producers would pay the fee either directly to the SBAH or through a slaughterhouse. Current fees for grading and certification are set by the USDA at \$61 to \$71 an hour. The specific fee depends on the frequency of use. Infrequent inspections could require the higher fee.

The bill does not specify that the fee should be deposited in a specific fund; it does, however, specify that the board must charge a fee to cover the costs of grading and certification. Of the total fee, 30% must be given to the USDA to cover its expense associated with supervising the program. The remainder could go to the SBAH to cover cost.

Currently, the SBAH Meat and Poultry Division is funded through a separate General Fund line-item appropriation of \$1,861,010 for FY 2008 and FY 2009.

*SBAH–Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

*Penalty Provision:* A person who knowingly or intentionally violates the commercial fertilizer law commits a Class A misdemeanor. Assaulting the State Chemist or the Chemist's agent while performing their duties is a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenues would likely be small.

**Explanation of Local Expenditures:** *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional

expenditures would likely be small.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

**State Agencies Affected:** DOC; ISDA; State Chemist.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Elisha Modisett, Department of Agriculture, 234-4042; Gary Haynes, Director of Legal Affairs, SBAH, 317-227-0349.

**Fiscal Analyst:** Bernadette Bartlett, 317-232-9586.